OGC Has Reviewed

Next 1 Page(s) In Document Denied

SECRET

22 June 1971

MEMORANDUM FOR THE RECORD

SUBJECT: Annual Report to Attorney General on Wiretapping And Eavesdropping Equipment - 1971

25X1

25X1 1. [redacted] SA/DD/IOS, conferred with [redacted] to determine whether a report would be submitted. (Add/IOS)

25X1 2. [redacted] conferred with the Director of Security and it was determined that IOS would not make a report.

25X1

[redacted]
Chief, Executive and Planning Division

SECRET

SECRET

10 JUN 1971

MEMORANDUM FOR: Chief, Executive and Planning Division/ES

SUBJECT : Annual Report to Attorney General on Wiretapping and Eavesdropping Equipment - 1971

REFERENCE : Memo to DD/PTOS, same Subject, dtd 1 June 1971

Attached are lists of positive audio equipment located at the [redacted] and positive audio equipment in use [redacted] This equipment is used to train U. S. Government personnel in effective domestic and overseas audio countermeasure activities. The bulk of the equipment is used [redacted] for which the Technical Division of this Directorate acts as the Executive Agent. These lists may be included in the required reports to the Attorney General if it is deemed advisable.

25X1
25X1
25X1

[redacted]

25X1

Deputy Director of Security (PTOS)

Att

SECRET

SECRET

1 June 1971

MEMORANDUM FOR: Deputy Director of Security/PTOS

SUBJECT : Annual Report to Attorney General on Wiretapping and Eavesdropping Equipment - 1971

1. In checking with the General Counsel's Office, we find that there is still a requirement for subject report which is due by 1 July 1971.

2. A copy of the report furnished to the General Counsel last year is attached for your information. To meet the deadline, your contribution would be appreciated by 21 June 1971.

25X1

Chief, Executive and Planning Division

Attachment

Distribution:
Orig & 1 - Addressee, w/att

SECRET

SECRET

10 JUN 1971

MEMORANDUM FOR: Chief, Executive and Planning Division/ES

SUBJECT : Annual Report to Attorney General on Wiretapping and Eavesdropping Equipment - 1971

REFERENCE : Memo to DD/PTOS, same Subject, dtd 1 June 1971

25X1 Attached are lists of positive audio equipment located at the [redacted] and positive audio equipment in use at the [redacted] 25X1 This equipment is used to train U. S. Government personnel in effective domestic and overseas audio countermeasure activities. The bulk of the equipment is used [redacted] for which 25X1 the Technical Division of this Directorate acts as the Executive Agent. These lists may be included in the required reports to the Attorney General if it is deemed advisable.

[redacted] 25X1

Deputy Director of Security (PTOS)

Att

SECRET

GROUP 1
Excluded from automatic downgrading and declassification

Next 2 Page(s) In Document Denied

1 June 1971

MEMORANDUM FOR: Deputy Director of Security/PTOS

SUBJECT : Annual Report to Attorney General on Wiretapping and Eavesdropping Equipment - 1971

1. In checking with the General Counsel's Office, we find that there is still a requirement for subject report which is due by 1 July 1971.

2. A copy of the report furnished to the General Counsel last year is attached for your information. To meet the deadline, your contribution would be appreciated by 21 June 1971.

25X1

Chief, Executive and Planning Division

Attachment

Distribution:
Orig & 1 - Addressee, w/att

1 - EPD File, w/o att
1 - EPD Chrono
25X1 OS/EPD/ gf (1 June 1971)

OGC 70-0980

15 June 1970

The Honorable Will R. Wilson
Assistant Attorney General
Criminal Division
Department of Justice
Washington, D. C. 20530

Dear Mr. Wilson:

In response to the request in the Attorney General's memorandum of June 16, 1967, to the heads of executive departments and agencies, there is enclosed an inventory of wire-tapping and electronic eavesdropping devices in our possession in the United States. This includes equipment [redacted] for which we act as executive agent. The devices listed are used for training purposes, and any other utilization of such equipment would fall within the terms of paragraph III of the Attorney General's memorandum.

25X1

Sincerely,

s/

Lawrence R. Houston
General Counsel

Enclosure

cc: Director of Security ✓

SECRET

11 JUN 1970

MEMORANDUM FOR: General Counsel

SUBJECT : Annual Report to Attorney General on Wiretapping and Eavesdropping Equipment, 1970

1. Attached are two lists of positive audio equipment which this Office maintains for the purpose of training U.S. Government personnel in domestic and overseas counter-measures. It will be noted that the bulk of the equipment is used by the [redacted] for which this Office acts as the Executive Agent.

25X1

25X1

2. The lists may be included in the required reports to the Attorney General if you deem it advisable.

[redacted]

25X1

Howard J. Osborn
Director of Security

Attachments

Distribution:
Orig & 1 - Addressee, w/atts
1 - D/Security, w/atts
1 - EPD File, w/atts
1 - EPD Chrono
OS/EPD/[redacted]:gf (9 June 1970)

25X1

SECRET

Next 2 Page(s) In Document Denied

Approved For Release 2007/10/23 : CIA-RDP83B00823R000800090019-7

SECRET

5 JUN 1970

MEMORANDUM FOR: Chief, Executive and Planning Division

SUBJECT : Annual Report to Attorney General on Wiretapping and Eavesdropping Equipment - 1970

1. Attachment "A" is a list of positive audio equipment located at the [redacted] 25X1 25X1

2. Attachment "B" is a list of positive audio equipment in use [redacted] 25X1 25X1 25X1

3. This equipment is maintained at these locations for the purpose of training U. S. Government personnel in domestic and overseas countermeasures.

[redacted] 25X1

Chief, Technical Division, OS

Attachments
(2) as stated

SECRET

GROUP 1
Excluded from automatic downgrading and declassification

Next 2 Page(s) In Document Denied

Approved For Release 2007/10/23 : CIA-RDP83B00823R000800090019-7

SECRET

3 June 1970

MEMORANDUM FOR RECORD

SUBJECT: Annual Report to Attorney General on Wiretapping and Eavesdropping Equipment - 1970

25X1 [redacted] SA/DD/IOS, conferred with

25X1 [redacted] ADD/IOS, to determine whether a report would be submitted. [redacted] said the activity is 25X1 inactive and no report will be submitted, the same position as last year.

[redacted] 25X1

Chief,
Executive and Planning Division

SECRET

SECRET

2 June 1970

MEMORANDUM FOR: Deputy Director of Security/PTOS

SUBJECT : Annual Report to Attorney General on Wiretapping and Eavesdropping Equipment - 1970

1. The General Counsel has reminded us of the Annual Report to the Attorney General on subject matter and has requested a report from us by 1 July 1970.

2. A copy of the report furnished to the General Counsel last year is attached for your information. To meet the deadline, your contribution would be appreciated by 23 June 1970.

[redacted] 25X1

Chief
Executive and Planning Division

Attachment

Distribution:
Orig & 1 - Addressee
1 - EPD File, w/att
1 - EPD Chrono, w/o att
25X1 OS/EPD/[redacted]:gf (2 June 1970)

SECRET

GROUP 1
Excluded from automatic downgrading and declassification

CONFIDENTIAL

1 June 1970

MEMORANDUM FOR THE RECORD

SUBJECT: Annual Report to Attorney General on Wiretapping and Eavesdropping Equipment, 1970

25X1 [redacted] Secretary to Chief, Executive Staff, [redacted] 25X1 called to remind us that Subject report is due on 1 July 1970 in the Office of the General Counsel. Lynne stated that the General Counsel's Office had called her office earlier to remind them of the 1 July deadline.

[redacted] 25X1

Secretary/EPD

CONFIDENTIAL

SECRET

OGC 69-1236

27 June 1969

The Honorable Will R. Wilson
Assistant Attorney General
Criminal Division
Department of Justice
Washington, D. C. 20530

Dear Mr. Wilson:

In response to the request in the Attorney General's memorandum of June 16, 1967 to the heads of executive departments and agencies, there is enclosed an inventory of wire-tapping and electronic eavesdropping devices in our possession in the United States. This includes equipment used by the [redacted], for which we act as executive agent. The devices listed are used for training purposes, and any other utilization of such equipment would fall within the terms of paragraph III of the Attorney General's memorandum.

25X1

Sincerely,

s/

Lawrence R. Houston
General Counsel

Enclosure

cc: Director of Security

SECRET

25X1

SECRET

26 JUN 1969

MEMORANDUM FOR: [redacted] General Counsel

SUBJECT : Annual Report to Attorney General on Wiretapping and Eavesdropping Equipment, 1969

1. Attached is a list of positive audio equipment which this Office maintains for the purpose of training for use overseas; attached also is a list of equipment used [redacted] for training purposes. The Office of Security acts as Executive Agent [redacted] 25X1 25X1 25X1

2. The lists may be included in the required report to the Attorney General if you deem it advisable.

[redacted] 25X1

Howard J. Osborn
Director of Security

Atts

Distribution:
Orig. & 1 - Adse.
1 - D/Security
1 - Legislative File on Wiretapping
1 - Chrono

25X1 SA/EPD/OS/[redacted]/tb (26 June 1969, [redacted]) 25X1

SECRET

GROUP 1
Excluded from automatic downgrading and declassification

Approved For Release 2007/10/23 : CIA-RDP83B00823R000800090019-7

11 June 1969

MEMORANDUM FOR: Deputy Director of Security/PTOS
Deputy Director of Security/IOS

SUBJECT : Annual Report to Attorney General on Wiretapping and Eavesdropping Equipment - 1969

1. The General Counsel has reminded us of the Annual Report to the Attorney General on subject matter and has requested a report from us by 1 July 1969.

2. A copy of the report furnished to the General Counsel last year is attached for your information. To meet the deadline, your contribution would be appreciated by COB 25 June 1969.

Signed

[redacted] 25X1

Chief
Executive and Planning Division

Attachment

Distribution:
1 - Ea Addressee
1 - Wiretapping File
1 - EPD Chrono

25X1 C/EPD/OS/ [redacted]

25X1

25X1

25X1

24 JUN 1969

MEMORANDUM FOR: Chief, Executive and Planning Division

SUBJECT : Annual Report to Attorney General on Wiretapping and Eavesdropping Equipment - 1969

Attached is a listing of the positive audio equipment that the Technical Division, Office of Security, has on inventory. This equipment is used for training purposes only.

[redacted] 25X1

Chief, Technical Division

Attachment

Approved For Release 2007/10/23 : CIA-RDP83B00823R000800090019-7

SECRET

JUN 1969

MEMORANDUM FOR: Chief, Executive and Planning Division

SUBJECT: Annual Report to Attorney General on Wiretapping and Eavesdropping Equipment - 1969

Attached is a listing of the positive audio equipment that

25X1 [redacted] has on inventory. This equipment is separate from that inventoried by the Technical Division, Office of Security. The [redacted] equipment is used 25X1 for training purposes only.

[redacted] 25X1

Chief, Technical Division

Attachment

SECRET

Approved For Release 2007/10/23 : CIA-RDP83B00823R000800090019-7

3 June 1969

25X1 [redacted]

Jay indicated that Kathy received a telephone call from someone on the 7th Floor reminding us of the Annual Report to the Attorney General on Wire Tapping & Eavesdropping Equipment due to the General Counsel by 1 JULY 1969.

Our file on Wiretapping does not reflect a copy of last year's Annual Report, dated 26 July 1968. However, Jay found the attached Annual Report from last year in her chrono file (dictated by [redacted] 25X1
25X1 apparently in the absence of [redacted] and typed by Joyce).

Two Questions: Who has the action? EPD or Tech Division
There should be a basic memo somewhere indicating an Annual Report is due by 1 July of each year, but we do not have a copy of it.

Thelma

26 JUL 1968

MEMORANDUM FOR: The General Counsel

SUBJECT : Annual Report to Attorney General on Wiretapping and Eavesdropping Equipment, 1968

1. Attached is a listing of positive audio equipment which this Office maintains for the purpose of training for use overseas.

2. The list may be included in the required report to the Attorney General if you deem it advisable.

25X1

Howard J. Osborn
Director of Security

Attachment

25X1 /jae (25 July 1968)
Distribution:
Orig & 1 - Addressee
1 - Kathy
1 - Chrono

Approved For Release 2007/10/23 : CIA-RDP83B00823R000800090019-7

OLC 68-2300

ASSISTANT ATTORNEY GENERAL
CRIMINAL DIVISION

SECRET

Department of Justice
Washington 20530

November 20, 1968

Mr. Lawrence R. Houston
General Counsel
Central Intelligence Agency
Washington, D. C.

Dear Mr. Houston:

In your letter of November 1, 1968, you refer to our previous discussions concerning 18 U.S.C. 2512 (P.L. 90-351, 82 Stat. 214), and pose a series of questions on the application of that section of the Code. We concur in your view that 18 U.S.C. 2512(2) permits your agency and its contractors to engage in the transactions you describe in the second paragraph of your letter, without regard to the prohibitions in 18 U.S.C. 2512(1). It should be noted, however, that the permitted activities do not include the advertisement of prohibited devices.

So far as 18 U.S.C. 2512 is concerned, within the normal course of the activities of the United States, your agency may make or contract for deliveries to individuals or foreign governments and provide for distribution of informational materials in connection therewith. In view of the governmental, non-business purpose of such informational materials, we would not regard them as advertisements within the statutory prohibition. In addition, of course, many of the activities of your agency may come within the terms of 18 U.S.C. 2511(3), which provides an exemption for activities of the President in national security matters.

SECRET

With these observations in mind, and assuming no contract within 18 U.S.C. 2512(2) is involved, I shall endeavor to answer the specific questions raised on page two of your letter.

1. Inquiry or order from a foreign government would not make lawful the shipment, within the United States by mail or in interstate or foreign commerce, of prohibited devices or catalogues advertising such devices or promoting the use of any device for surreptitious intereception.

2. Questions relating to the proper use of diplomatic pouches and the activity of persons having some form of diplomatic accreditation involve matters of policy which lie within the province of the Department of State. Whatever the status of the diplomat buyer, it would not insulate the seller from the prohibitions of 18 U.S.C. 2512(1).

3. Nothing in 18 U.S.C. 2512 precludes ordering prohibited devices. To the extent that such an order induced a violation, the person placing the order might be punishable as a principal under the provisions of 18 U.S.C. 2. The foregoing would apply whether the order was sent from abroad or from within the United States. The manufacturer could not lawfully ship such items from the United States by mail or in interstate or foreign commerce, either to a commercial exporting firm or directly to a foreign government.

Although the answers given to your questions are essentially negative, the needs of a government contract is available to enable your agency and its contractors to engage in a wide range of activities which would otherwise be unlawful under 18 U.S.C. 2512(1). Please let me know if I may be of further assistance to you in this matter.

Sincerely,

Fred M. Vinson, Jr.

Fred M. Vinson, Jr.
Assistant Attorney General

SECRET

OGC 68-2177

1 November 1968

The Honorable Fred M. Vinson, Jr.
Assistant Attorney General
Criminal Division
Department of Justice
Washington, D. C. 20530

Dear Fred:

Since the passage in June 1968 of the Omnibus Crime Control and Safe Streets Act of 1968 (P. L. 90-351), a number of points have arisen on which we would appreciate either confirmation or guidance from your office. All of these items arise under Title III of the act having to do with Wiretapping and Electronic Surveillance, and in order to simplify our inquiries we will refer to the "wire or oral communications" intercepting devices specified in the act as "audio" devices.

From our discussions with you prior to the passage of the act and our reading of the act as it now stands, it is our understanding that nothing in the act, and specifically in section 2512, prevents a Government agency, which is authorized to engage in audio operations and countermeasures, from contracting with commercial firms for research concerning, and development of, audio devices and the procurement of such devices for authorized agency use. Furthermore, under subsection (2), section 2512, it appears that such a private contractor could send such devices through the mail or in interstate or foreign commerce for such agency's purposes. Since we are continuing our program of research and development and procurement of such devices primarily for training and use outside of the United States and its possessions, we would like confirmation that this presents no problem.

SECRET

Set forth below are certain specific questions on which we would appreciate your guidance. They have to do with matters which are constantly arising in the intelligence community, so that your answers would be of interest not only to this Agency, but also to the Technical Surveillance Countermeasures Committee, United States Intelligence Board, on which the various members of the community are represented.

1. May a manufacturer or supplier of audio surveillance equipment send catalogues or the equipment itself by mail or through commercial channels directly to a foreign government in response to an inquiry or order received from the foreign government?

2. May a diplomatically accredited individual representing a foreign government purchase audio surveillance equipment in, for example, New York and mail it or carry it back to Washington for subsequent pouching through diplomatic channels to his government?

3. May a commercial exporting firm located either in the United States or abroad place an order on behalf of a foreign government with a manufacturer in this country for audio surveillance equipment? In this instance, may the equipment be shipped to the exporting firm for subsequent reshipment to the foreign government or, alternately, may the manufacturer ship directly to the foreign government?

If you feel it would be useful to confer on these and related matters, I would be very glad to meet with you or your representative.

Sincerely,

s/Larry

Lawrence R. Houston
General Counsel

cc: C/Technical Surveillance Countermeasures Committee
CI Staff
Legislative Counsel
D/Security

SECRET

CONCURRENCE SHEET

20\093

Letter from General Counsel for The Honorable Fred M. Vinson, Jr., Assistant Attorney General, Criminal Division, Department of Justice, dated 1 November 1968, concerning wiretapping and electronic surveillance.

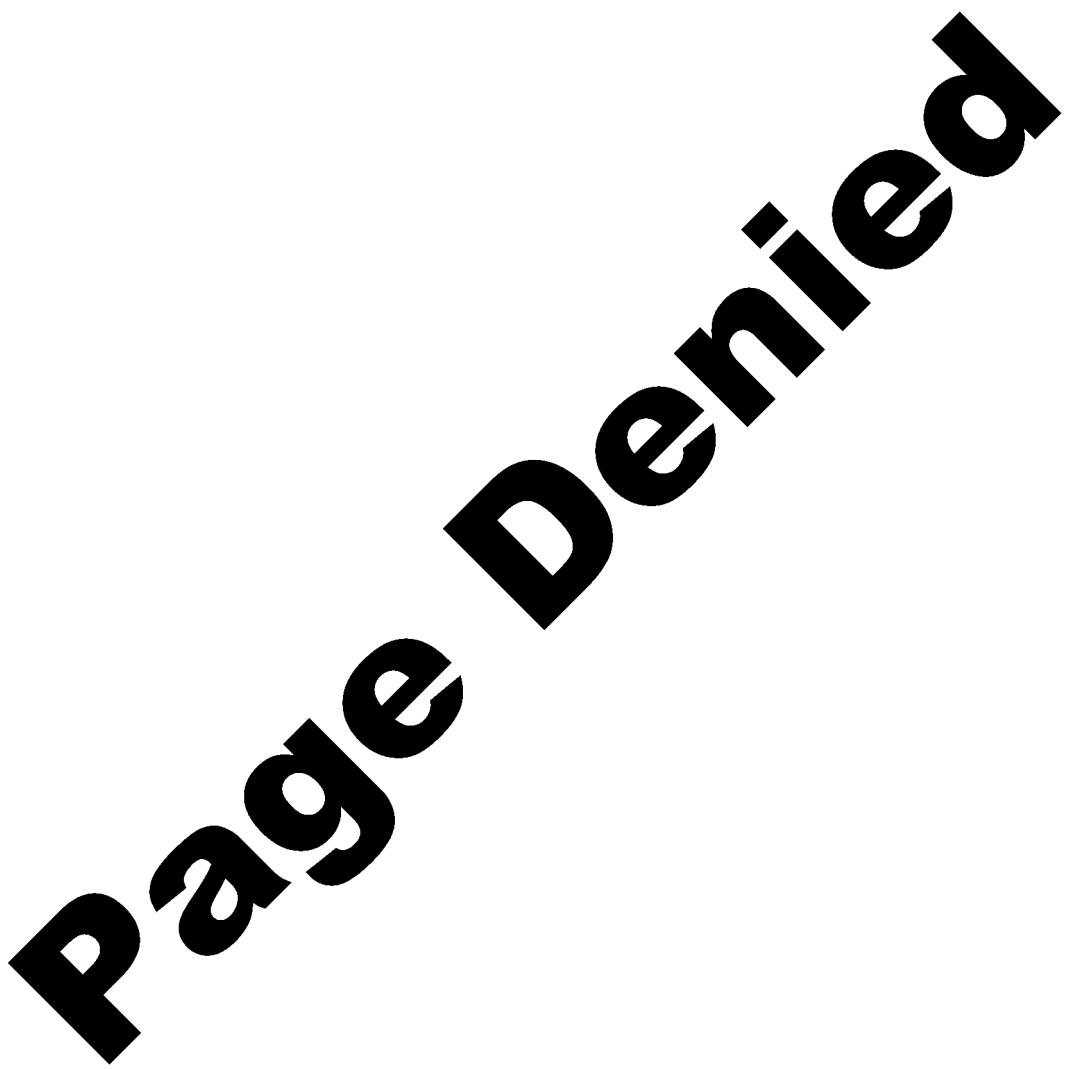
CONCURRENCE:

25X1 s/ [redacted] 10/10/68
Chairman Date
Technical Surveillance Countermeasures Committee

25X1 s/ [redacted] 10/15/68
Counterintelligence Staff Date

25X1 Suggest the letter be classified Secret. [redacted] CI Staff

SECRET



SECRET

1 NOV 1968

MEMORANDUM FOR: General Counsel

SUBJECT : Omnibus Crime Control and Safe Streets Act of 1968

Members of my Staff have reviewed your proposed memorandum to the Assistant Attorney General, Criminal Division, Department of Justice. The memorandum covers the salient points of interest to this Office, and we would appreciate being advised of the reply to this Agency on the questions posed.

25X1

Howard J. Osborn
Director of Security

Distribution:
Orig. & 1 - Adse.
1 - D/Security
1 - EPD
1 - EPD Chrono

C/EPD/OS/SWENDIMAN:tb (1 Nov 68, x5961)

SECRET

The Honorable Fred M. Vinson, Jr.
Assistant Attorney General
Criminal Division
Department of Justice
Washington, D. C. 20530

Dear Fred:

Since the passage in June 1968 of the Omnibus Crime Control and Safe Streets Act of 1968 (P. L. 90-351), a number of points have arisen on which we would appreciate either confirmation or guidance from your office. All of these items arise under Title III of the act having to do with Wiretapping and Electronic Surveillance, and in order to simplify our inquiries we will refer to the "wire or oral communications intercepting devices specified in the act as "audio" devices.

From our discussions with you prior to the passage of the act and our reading of the act as it now stands, it is our understanding that nothing in the act, and specifically in section 2512, prevents a Government agency, which is authorized to engage in audio operations and countermeasures, from contracting with commercial firms for research concerning, and development of, audio devices and the procurement of such devices for authorized agency use. Furthermore, under subsection (2), section 2512, it appears that such a private contractor could send such devices through the mail or in interstate or foreign commerce for such agency's purposes. Since we are continuing our program of research and development and procurement of such devices primarily for training and use outside of the United States and its possessions, we would like confirmation that this presents no problem.

SECRET

Set forth below are certain specific questions on which we would appreciate your guidance. They have to do with matters which are constantly arising in the intelligence community, so that your answers would be of interest not only to this Agency, but also to the Technical Surveillance Countermeasures Committee, United States Intelligence Board, on which the various members of the community are represented.

1. May a manufacturer or supplier of audio surveillance equipment send catalogues or the equipment itself by mail or through commercial channels directly to a foreign government in response to an inquiry or order received from the foreign government?

2. May a diplomatically accredited individual representing a foreign government purchase audio surveillance equipment in, for example, New York and mail it or carry it back to Washington for subsequent pouching through diplomatic channels to his government?

3. May a commercial exporting firm located either in the United States or abroad place an order on behalf of a foreign government with a manufacturer in this country for audio surveillance equipment? In this instance, may the equipment be shipped to the exporting firm for subsequent reshipment to the foreign government or, alternately, may the manufacturer ship directly to the foreign government?

If you feel it would be useful to confer on these and related matters, I would be very glad to meet with you or your representative.

Sincerely,

Lawrence R. Houston
General Counsel

SECRET

Next 5 Page(s) In Document Denied

25X1

Fact Sheet On Wiretapping

CONTROVERSY EXPECTED OVER STATE, LOCAL WIRETAPPING

For the first time in the nation's history, state and local police are authorized by federal law to carry on widespread wiretapping and electronic eavesdropping to prevent and investigate crime.

The extent to which that authority is used, and the way in which it is used—or abused—could become matters of public interest. The effectiveness of the new authority in coping with the crime problem is a subject which law enforcement officials can be expected to watch closely. And the constitutionality of the new authority and of police practices under it doubtless will be the subject of considerable litigation.

A number of cases involving wiretapping, all based on federal or state law prior to enactment of the new authority, already are on appeal to the Supreme Court. Important rulings in this field could be forthcoming in the Court's 1968-69 term, which begins Oct. 1.

The new authority is contained in Title III of the Omnibus Crime Control and Safe Streets Act of 1968 (HR 5037—PL 90-351), a title denounced by President Johnson when he signed the bill into law June 19. Calling the title "unwise and dangerous," he urged its repeal. *(For provisions of the law, see Weekly Report p. 1433; for the President's remarks, see p. 1632.)*

Title III authorized federal, state and local law enforcement officers to wiretap and eavesdrop in a wide variety of cases. For state and local officers, the authority extended to any crime punishable by more than one year in prison. Mr. Johnson June 19 restated his policy that federal officials would wiretap only in cases involving the national security.

The new law also required federal agents, for the first time, to obtain warrants in order to place taps in national security cases. It also prohibited private use of electronic surveillance and the sale and distribution in interstate commerce of listening-in-devices.

Title III of PL 90-351 was based on a draft bill included in the 1967 report of the Task Force on Organized Crime, one of the study groups set up by the President's Commission on Law Enforcement and Administration of Justice. The section on electronic surveillance and the draft bill were prepared by Prof. G. Robert Blakey of the University of Notre Dame Law School. Blakey is a member of the American Civil Liberties Union (ACLU), a group vigorously opposed to broad wiretapping authority.

Controversy. There was controversy over passage of the new law, which Senate liberals fought strenuously, and there is bound to be controversy over its implementation by state and local law enforcement officials. Many observers expect the larger police departments in the nation to make abundant use of the new authority, although smaller departments might well find electronic surveillance beyond their capabilities.

Attorney General Ramsey Clark, echoing the words of the President, described the wiretapping provisions in the law as "undesirable." He is of the school of thought which holds that wiretapping is of marginal value, at best, in law enforcement. His father, retired Justice Tom C. Clark, said in *Berger v. N.Y.* (1967): "Few threats to liberty exist which are greater than that posed by the use of eavesdropping devices."

Many law enforcement officials, on the other hand, contend that electronic surveillance is a valuable method of gaining leads and evidence about involved, manipulative schemes such as gambling, narcotics rings or public corruption.

Background

REFERENCES—*Congress and the Nation p. 1659, 1661; 1964 Almanac p. 77; 1965 Almanac p. 629; 1966 Almanac p. 567; 1967 Almanac p. 864.)*

Legislative Background. Until 1968, federal law on wiretapping was embodied in the Communications Act of 1934 (47 U.S.C. 605), which was a general statute aimed at protecting the privacy of citizens using the telephone or telegraph for communications. The Act read in part: "...and no person not being authorized by the sender shall intercept any communication and divulge or publish the existence, contents, substance, purport, effect, or meaning of such intercepted communication to any person...." The statute exempted such matters as routine work by communications workers and transmissions relating to ships in distress.

The Justice Department in 1941 ruled that a violation of Section 605 required both an interception and a divulgence outside the Federal Government; that ruling interpreted the Act as meaning that the Federal Government could wiretap as long as the contents of the communication intercepted were not divulged. The Federal Bureau of Investigation, the Internal Revenue Service and other federal agencies followed that interpretation. As a result, undisclosed wiretapping by the Federal Government was little publicized but relatively widespread.

The amount of state wiretapping was even less publicized. Some states had legislation permitting it, some prohibited it and some had no law at all on the subject. Most state officials were reluctant to discuss the issue, but it was widely assumed that wiretapping in some states was common.

After World War II Congress in several years considered legislation aimed at restricting the amount of wiretapping but permitting use of wiretap evidence in court in certain instances. The first bills were engendered by the national security concerns of the McCarthy period. The only bill to pass either house was a 1954 measure legalizing use of wiretap information in federal courts in national security prosecutions. It was passed by the House and died in committee in the Senate.

The Kennedy Administration in 1961 endorsed proposals for a wiretap law authorizing federal agencies to wiretap in cases of national security, organized crime and other serious crimes and placing no limits on state wiretapping. In 1962, the Kennedy Administration sent a bill to Congress which was somewhat more restrictive: it authorized federal wiretapping in cases of national security, organized crime and other serious crimes; it limited state wiretapping to certain serious crimes; and it outlawed all other wiretapping. Congress took no action on the proposal. *(1962 Almanac p. 436)*

1967 Developments. President Johnson first addressed himself to the wiretapping issue in his Feb. 6, 1967, message to Congress on crime. He proposed the Right of Privacy Act of 1967. This would have banned all police and private wiretapping or eavesdropping except for federal law enforcement officers, who would be authorized by the President to wiretap or eavesdrop in national security cases. Evidence obtained in national security cases was not to be admissible in court. The only other exception allowed was that contained in the 1934 Act, namely, when one party consented to the tap. The Administration bills (HR 5386, S 928) also prohibited the advertisement, manufacture or distribution in interstate commerce of wiretapping or electronic eavesdropping devices.

The second major proposal was a bill (S 675) sponsored by Sens. John L. McClellan (D Ark.) and Roman L. Hruska (R Neb.). It was similar to a bill backed unsuccessfully by McClellan in the 89th Congress. S 675 dealt only with wiretapping. It authorized the Attorney General to permit wiretapping in cases of organized crime, capital offenses, narcotics and certain other serious federal crimes. It also authorized states to permit wiretapping in accordance with federal and state law. In cases of both national security and crime, federal officers would have to obtain a court order authorizing the wiretap; the federal judge was required to limit the wiretap to 45 days, renewable by extensions of 20 days, and to inform the Attorney General and the Administrative Office of the United States Courts of wiretap orders he had issued or denied. Wiretap evidence so obtained was admissible in court.

The Senate Judiciary Subcommittee on Administrative Practice and Procedure and the House Judiciary Subcommittee No. 5 held hearings on the measures, but no bills were reported in 1967.

The Judicial Conference of the United States, the policy and administrative arm of the federal judiciary, in September endorsed legislation to authorize federal and state investigators to tap telephones in organized crime and national security cases if the investigators obtained a court order. That recommendation was substantially the same as the one made by the President's Commission on Law Enforcement and Administration of Justice in its Feb. 18, 1967 report. *(1967 Almanac p. 873)*

Clark Order. Attorney General Ramsey Clark June 16, 1967, issued a memorandum sharply restricting the use by federal agents of wiretapping or eavesdropping devices except in national security cases. The new regulations banned virtually all other use of such devices, including use of equipment to pick up conversations in a room where no physical trespass was made by the federal agents. Such clandestine listening had been thought to be within constitutionally permissible limits for federal agents under the Supreme Court holding in *Goldman v. U.S.* (1942). The new regulations did permit monitoring of conversations where one party was aware of the monitoring, provided the Attorney General had given his written permission. Agencies could make such intercepts on their own in emergencies, but they had to notify the Attorney General of their action within 24 hours.

1968 Crime Law

Congress gave a setback to President Johnson in 1968 by including broadly permissive wiretapping provisions in the Administration's omnibus crime bill (HR 5037—PL 90-351).

Mr. Johnson Feb. 7 had repeated his plea for enactment of the Right of Privacy Act. He did so in a special message to Congress outlining the most comprehensive

'National Security' Cases

What is a "national security" case? The new wiretapping law (Title III of PL 90-351) did not define the term. Neither did Attorney General Ramsey Clark in announcing that federal wiretapping would be limited to such cases.

PL 90-351 said the law does not limit the power of the President to "take such measures as he deems necessary to protect the United States against the overthrow of the Government by force or other unlawful means, or against any other clear and present danger to the structure or existence of the Government."

One indication of how the Government interprets "national security" may be found in testimony FBI Director J. Edgar Hoover gave Feb. 23 before the House Appropriations Subcommittee on the Departments of State, Justice, Commerce and the Judiciary.

Hoover described to the Subcommittee the "Communist Party-U.S.A. and other subversive groups," which he identified as the W.E.B. DuBois Clubs of America, the Socialist Workers Party, the Young Socialist Alliance and others.

He also discussed the "new left," especially the Students for a Democratic Society. He called the "new left" a "new type of subversive and their danger is great."

Hoover discussed "white hate groups" which he identified as the American Nazi Party, the National States Rights Party, 14 Ku Klux Klan organizations and the Minutemen, an organization which he said had as its claimed purpose the overthrow of the Government when and if the Government is overtaken by Communists.

Hoover called certain black nationalist groups "a serious threat to our country's internal security." He named such groups as the Nation of Islam, Revolutionary Action Movement (RAM) and the Student Nonviolent Coordinating Committee (SNCC).

Hoover testified that "we have a total of 33 telephone taps in Bureau cases, all in the security field, and all have been approved in advance and in writing by the Attorney General."

anticrime program ever submitted by a President to Congress. *(Weekly Report p. 242)*

At the time of delivery of that message, Administration officials denied rumors that Mr. Johnson was willing, in order to secure passage of provisions designed to help update local police departments, to accept McClellan's wiretapping provisions.

In any event, McClellan succeeded in adding such amendments to the House-passed version of HR 5037 in the Senate Judiciary Committee. Those provisions (Title III of the revised bill) authorized the Attorney General to permit federal officers to seek warrants by federal judges to wiretap in cases involving a wide variety of federal crimes and national security. The amendments authorized appropriate legal officers in states and municipalities to seek such warrants from state judges for wiretapping in any case involving a crime punishable by imprisonment for more than one year, i.e., any felony. Warrantless taps in emergencies also were authorized, although later, on the Senate floor, those provisions were limited to cases of national security and organized crime. Officers placing emergency taps had to apply for retroactive warrants within 48 hours. *(For details of provisions, see Weekly Report p. 1436.)*

In signing the bill into law June 19, President Johnson said that "Congress, in my judgment, has taken an unwise and potentially dangerous step by sanctioning eavesdropping and wiretapping by federal, state and local law officials in an almost unlimited variety of situations.

"If we are not very careful and cautious in our planning, these legislative provisions could result in producing a nation of snoopers bending through the keyholes of the homes and offices in America, spying on our neighbors. No conversation in the sanctity of the bedroom or relayed over a copper telephone wire would be free of eavesdropping by those who say they want to ferret out crime." *(For full text, see Weekly Report p. 1632.)*

The President called upon Congress to repeal the wiretapping provisions of the new law.

The President also said that the 1967 Justice Department memorandum relating to federal wiretapping and eavesdropping would remain in effect and that federal use of electronic surveillance would be limited to national security cases. That policy was the subject of an angry exchange June 27 between McClellan and Clark during hearings on Justice Department appropriations before the Senate Appropriations Subcommittee, of which McClellan was chairman.

Clark reiterated federal policy on electronic eavesdropping, which he called "wasteful and unproductive" in investigating other than national security cases, including organized crime. He added that there were on June 27 a total of 38 federal electronic surveillances in operation, all relating to national security cases.

When McClellan charged that the Administration was "flouting" the law, Clark responded: "This Administration has never and will never flout the law." He said PL 90-351 authorized, but did not direct, federal officials to use electronic surveillance.

"Then why did you fight the bill so hard?" McClellan asked, referring to Administration opposition to the wiretapping title. Clark said he opposed the title because "it is undesirable and leads to invasion of privacy." He said provisions authorizing wiretapping by local law enforcement officials were particularly undesirable.

Legal Developments

Constitutional law governing federal and state wiretapping and eavesdropping developed considerably through two Supreme Court decisions in 1967. But it remained relatively primitive, and many points of law were still to be settled.

In *Katz v. U.S.* (Dec. 18, 1967), the Court settled a major question, namely, whether a wiretap or eavesdrop constituted a "search and seizure" within the meaning of the 4th Amendment. By a 7-1 vote, the Court held that a conversation was a "thing" that could be seized by a wiretap and that the wiretap was a "search and seizure" in the constitutional sense.

The effect of bringing electronic surveillance within the 4th Amendment was not to ban it but to require police to obtain warrants before placing a tap or bug. In applying to a judge for the warrant, they would have to specify the conversation they sought to intercept, just as in applying for a warrant to search a house, they would have to specify the contraband or other evidence they sought to seize.

Justice Black dissented in *Katz* on grounds that, "A conversation overheard by eavesdropping, whether by plain snooping or wiretapping, is not tangible and, under the normally accepted meaning of the words, can neither be searched nor seized."

The effect of *Katz* was to overrule two cases of relatively recent vintage. The first was *Olmstead v. U.S.* (1928), which was the Court's first wiretap case. The Court there held by a 5-4 vote that use of wiretap evidence in federal courts did not of itself violate the 4th Amendment protection against unreasonable searches and seizures or the 5th Amendment guarantee against self-incrimination. The second case was *Goldman v. U.S.* (1942), in which the Court found no objection to the use of evidence obtained by a detectaphone placed against the wall of the defendant's room. The Court reasoned that since there had been no physical trespass, there was no violation of the 4th Amendment. That theory was abandoned in *Katz.*

There had been such a physical trespass in *Silverman v. U.S.* (1961), a case in which federal agents used a spike microphone which penetrated the wall of the defendant's home and touched heating ducts, enabling the agents to overhear conversations. The Court held that the recordings thus obtained could not be used in court.

State Wiretapping. In *Berger v. N.Y.* (June 12, 1967), the Court struck down as unconstitutional New York's law authorizing police to obtain court orders to eavesdrop. The Court approved of the judicial supervision of the eavesdropping but said the supervision was insufficient. It said the law did not include requirements that police specify to the judge the crime suspected and the evidence sought, that a time limit be placed on the eavesdrop, that the eavesdrop be stopped when the specific information was obtained or that exigent circumstances be shown to justify the eavesdrop. The decision appeared to suggest that a more carefully drawn state statute, placing police under more strict judicial control, might withstand constitutional attack.

The vote in *Berger* was 6-3, with Justices Black, Harlan and White dissenting.

1934 Act. The Court ruled in *Nardone v. U.S.* (1937, 1939) and in *Benanti v. U.S.* (1957) that the Com-

munications Act of 1934 made it illegal for any third party, public or private, to wiretap on interstate telephone lines and then to divulge the contents of what was learned. The Court said that evidence thus obtained could not be introduced in federal courts.

Regarding state courts, the Court rules in *Schwarz v. Texas* (1952) and *Pugach v. Dollinger* (1961) that it was up to the states to determine if wiretap evidence obtained in violation of the 1934 Act could be introduced in state courts.

Electronic Surveillance Methods

There appears to be a considerable gulf between popular conceptions of electronic surveillance and the realities of police uses of that technique.

In 1966, four Congressional subcommittees held hearings on both public and private invasions of privacy. Considerable publicity was given to the claimed capacities of microminiaturized equipment, such as tiny microphones or radios small enough to conceal in the olive of a martini, with the toothpick serving as an antenna. One witness referred to popular conceptions of electronic surveillance as arising from the "adult comic book world of James Bond and Napoleon Solo." *(1966 Almanac p. 1378)*

While there is no disputing the advances in electronic equipment, especially since invention of the transistor, there are a number of limiting factors in the use of such equipment. Most importantly, wiretapping and electronic eavesdropping are expensive, both in equipment and manpower. To establish and maintain electronic surveillance involves a major commitment in funds and manpower for any police organization.

Difficulties of Wiretapping. The problems in establishing a wiretap or bug are many. Under PL 90-351, police first had to obtain a warrant from a judge, and to do so they had to meet a number of conditions. Notably, they had to specify the identity of the person they intended to monitor, the nature of the conversations they sought to intercept and the crime they expected was being planned or committed.

Assuming they obtained the warrant, they then had to "case" the living or working quarters of the potential defendant to determine its physical layout, the positions of telephones and other details. That would have to be done clandestinely and might be especially difficult in a hostile neighborhood. In addition, police would have to establish the habits of the potential defendant, for he might use public telephones nearby for his important calls.

It is important in electronic surveillance to establish a monitoring post as close as possible to the tapped telephone or bugged room. There are several reasons for that. First, the capacity of police to respond quickly is vital. The potential defendant might place a telephone call and say only, "Harry, meet me at the usual place in 10 minutes." Then he would hang up and leave the building. Police had to be able to follow him immediately, to establish the identity of "Harry" and of the "usual place," if nothing else. Those facts would fit in as part of the pattern of the suspect's activities which police were trying to establish. The use of such quick meetings in bars and restaurants is common in organized crime.

Second, the audio quality of recordings is important. Microminiaturized equipment is small, but it lacks the high-quality audio characteristics of larger equipment. That is especially true when the transmission carries for some distance. It is necessary to have high quality audio in order to prove to the jury at trial that the voice recorded is in fact the voice of the defendant.

Third, surveillance equipment often needs on-the-spot maintenance, such as new batteries for the power package of a radio or repairs to a wiretap or miscrophone.

Finally, the kind of equipment used for close proximity listening is cheaper than that required for listening at a distance.

Given those considerations, police would choose the appropriate equipment and obtain a monitoring post near the suspect's quarters. They would gain entry, if necessary, and place the bug or wiretap. Certain kinds of bugs or wiretaps do not require entry of the suspect's premises.

From then on, police would have to monitor the suspect at all times he was on the premises. That might require from two to four officers working in relays. If both a bug and a wiretap were used, one officer would monitor each system. They would keep records of what was being recorded in order to testify later that the recordings in fact were made under those circumstances.

To place and monitor a wiretap or bug, therefore, requires a substantial commitment in terms of money and manpower and considerable skill in gaining entry of locked premises and placing electronic surveillance equipment.

Defenses. There are defenses to electronic surveillance, and persons familiar with criminal activity generally know what they are. A radio blaring in a bugged room effectively smothers human speech for purposes of recording it by a bug. Coded messages or the use of nicknames on the telephone are a technique frequently used by underworld personalities.

"Any hood worthy of the name, any political grafter knows he is being tapped or bugged, or thinks so," one law enforcement official told CQ. "They seldom feel secure, even in their own homes." He described one situation in which the suspect directed his contact, who in reality was a police informant, to meet him on a public beach and to wear only bathing trunks. Police quickly rigged a small radio inside the informant's trunks in order to monitor the conversation.

The official told about another tap in which the suspect said each morning, when he picked up the telephone, "Good morning, D.A., I know you're listening," referring to the district attorney. Other suspects, he said, often spoke in yiddish or Italian, under the impression that there were no police officers in the department who spoke those languages.

One simple defense is to meet in public, although the suspect would have to assume that the person he was talking with was not a police informant wearing a radio. The use of information obtained in that manner was upheld by the Court in *Hoffa v. U.S.* (1966) and related cases.

Another defense is to use public telephones. Police can observe the defendant to determine if he regularly

uses the same public telephones. That was the case in *Katz v. U.S.* (1967). Federal agents bugged the telephone booths the suspect used and activated recording equipment whenever the suspect entered the booth. To tap a public telephone on a continuous basis probably would raise constitutional questions. PL 90-351 declared a warrant valid only as to the suspects named in it, and not as to the general public. If police overheard conversations by some citizen not mentioned in the warrant, and the citizen discussed criminal activity, that evidence might not be admissible in court. Litigation on that point can be expected in future years.

The most sophisticated defense is the use of electronic equipment to detect wiretaps or bugs. That technique is called a "sweep." When the President travels, for example, Secret Service personnel "sweep" each room in which he is expected to confer. For organized crime personalities to obtain similar services seems difficult at best. There are private businesses offering such services, but their reliability is questionable.

The law enforcement official told CQ that since organized crime personalities already suspect that they are under surveillance, the deterrent effect of PL 90-351 probably would be negligible.

Types of Crimes

There seems little doubt that electronic surveillance is of little or no value in preventing or investigating crimes of violence, such as muggings, murders or rapes, or certain property crimes, such as burglaries or robberies, unless they are perpetrated by an organized group on a systematic basis.

Law enforcement officials believe, however, that electronic surveillance is useful in investigating highly involved criminal conspiracies in which the most important potential defendants are well "insulated" from police detection. Examples of such conspiracies include organized illegal gambling, corruption in public agencies such as the police, courts or regulatory bodies, extortion rings, narcotics operations, bid-rigging on public contracts, unlawful union operations, the awarding of "sweetheart" contracts and the like. It should be noted that PL 90-351, as applied to federal agents, did not authorize electronic surveillance in cases involving "white collar" crimes, such as unlawful price-fixing or conspiracies to restrain trade.

In typical organized gambling or narcotics operations, police often are well aware of the lowest-level of activity, i.e., the bookie or the dope pusher who makes contact with the public and handles money. The difficulty arises in tracing lines of authority and control up to higher levels, where public officials, police, judges, political figures or criminal overlords might well be involved.

The same difficulty is present in large-scale conspiracies to sell licenses or to guarantee to landlords, in return for a payoff, that their buildings will not be found in violation of the housing code.

It is in investigating those kinds of crimes that electronic surveillance, in the views of law enforcement officials, is useful. They regard it as a valuable method of gathering evidence in order to reconstruct, before a jury, the complex web of communications, meetings and agreements which were necessary to maintain such criminal operations.

LOBBYING ACTIVITIES

(Continued from p. 1841)

legislation to prevent imported industrial oil from taking over the entire East Coast fuel market. He said the dependency of the East Coast area upon imported residual fuel oil had grown from 59 to 82 percent in the past decade and that only legislation could reverse the trend toward a monopoly.

Moody, who represented the United Mine Workers of America as well as various parts of the coal industry, said the Interior Department was proposing to grant crude oil bonuses to refiners who produced low sulfur residual fuel oil—either domestic or foreign crude—to use in areas where air pollution regulations had been adopted to limit the sulfur oxide content of the atmosphere. He said this would almost certainly stimulate an even greater increase in oil imports, "which in the past two years have already grown by an average of 39 million barrels annually."

Moody urged the Committee to write into the proposed Trade Expansion Act of 1968 (HR 17551) guidelines under which fuel oil imports would be allowed "a fair and reasonable share of the market" but would not be permitted to increase to the point where they could "inflict further serious damage on domestic fuels" and endanger the national welfare and security. *(For trade bill hearings, see Weekly Report p. 1415, 1462, 1586 and 1733.)*

CORRECTIONS

(For previous corrections, see Weekly Report p. 1697.)

Page 1032, Col. 2—Under National Science Foundation, read "Appropriated $400 million (request: $500 million).

Page 1402, Col. 1—Under "Details of Plan," the number of the Administration-backed Airport Development Act of 1968 should be listed as S 3645. Sen. A.S. Mike Monroney (D Okla.) June 13 introduced the measure by request. The bill number correction should be made also in column two, under "Hearings."

Page 1536, Col. 1—In the third paragraph, the former Democratic National Committee official who has joined the Humphrey campaign is George Booker (not Brooker).

Page 1538, Col. 2—Georgia state Rep. Julian Bond (D) has informed Congressional Quarterly that he has not supported Sen. Eugene J. McCarthy (D Minn.) for President.

Page 1667, Col. 2—In paragraph 2, the last line should read: ...after 24 years of service. The sliding scale of benefits for service of five to 24 years remained in effect.

CRIME BILL

Following is the complete text of President Johnson's June 19 statement on signing the Omnibus Crime Control and Safe Streets Act (HR 5037): (For story, see p. 1551.)

The Safe Streets and Crime Control Act of 1968 has had a long journey.

The work behind the principal title of the act began in July 1965 when I appointed the National Crime Commission. The work of the Congress started more than 16 months ago, in February 1967, when I called upon it to strike a sure and swift blow against crime in America.

Now, almost 500 days later, the legislative process has run its full course. The measure before me carries out many of the objectives I sought. But it also contains several other provisions which are unwise and which will not aid effective law enforcement.

Over the past 10 days, I have given full consideration to this intricate, 110 page bill. I have carefully weighed the good features against the undesirable, the questions of law and policy it raises against the remedial actions I might take to resolve those questions, the immediate crisis of local law enforcement against the bill's response.

My decision has been made only after consulting with the wisest counselors available to the President. I have asked 11 Government departments and agency heads, including those most affected, such as the Attorney General, the Director of the Federal Bureau of Investigation, the Secretary of the Treasury, the Chairman of the Federal Communications Commission, and the Mayor of the District of Columbia, for their views. No department has recommended veto. On the basis of their advice and my own searching examination, I have decided that this measure contains more good than bad and that I should sign it into law.

I sign the bill because it responds to one of the most urgent problems in America today—the problem of fighting crime in the local neighborhood and on the city street.

The program I recommended 16 months ago—the Safe Streets Act—is the heart of this measure.

My program was based on the most exhaustive study of crime ever undertaken in America—the work of the President's National Crime Commission. The Commission—composed of the Nation's leading criminologists, police chiefs, educators, and urban experts—spotlighted the weaknesses in our present system of law enforcement. It concluded that the States and local communities need large-scale Federal financial assistance to help them plan, organize, and mount a concerted and effective attack on crime.

The bill I sign today provides much of that urgently needed assistance. It will give help to the ill-equipped and poorly-trained policeman on the beat, to the overburdened courtroom, to the antiquated correctional institution. The legislation honors the deeply rooted principle that the Federal Government should supplement—but never supplant—local efforts and local responsibility to prevent and control crime.

This measure moves in new directions to fight crime by:

—Authorizing $400 million in Federal grants over a 2-year period for planning and launching action programs to strengthen the sinews of local law enforcement—from police to prisons to parole.

—Creating a National Institute of Law Enforcement and Criminal Justice to begin a modern research and development venture which will put science and the laboratory to work in the detection of criminals and the prevention of crime.

—Establishing a pioneering aid-to-education program of forgivable college loans and tuition grants to attract better law enforcement officers and give them better education and preparation.

—Providing greatly expanded training for State and local police officers at the National Academy of the Federal Bureau of Investigation.

—Permitting Federal funds to be used to supplement police salaries and to encourage the specialized training of community service officers whose mission will be to ease tensions in ghetto neighborhoods.

These are among the prime advantages of this bill I sign today.

The measure also ends three decades of inaction on the problem of gun controls. Interstate traffic in handguns and their sales to minors will not be prohibited by law. The majority of all the murders by firearms in this Nation are committed by these small but deadly weapons.

But as I have told the Nation and the Congress repeatedly, this is only a halfway step toward the protection of our families and homes. We must go further and stop mail-order murder by rifle and shotgun. We must close a glaring loophole in the law by controlling the sale of these lethal weapons, as well as the sale of ammunition for all guns.

A week ago I submitted my proposal for more stringent safeguards. I asked, as I had before: "What in the name of conscience will it take to pass a truly effective gun control law?"

In the next few days, the Congress has the opportunity to answer that question. The call for action is compelling. We dare delay no longer. I urge the Congress to act on this bill immediately. I am asking the Attorney General to explore what further steps should be taken in the gun control area so that I may recommend them when the Congress has acted on the legislation I submitted last week.

Title III of this legislation deals with wiretapping and eavesdropping.

My views on this subject are clear. In a special message to Congress in 1967 and again this year, I called—in the Right of Privacy Act—for an end to the bugging and snooping that invade the privacy of citizens.

I urged that the Congress outlaw "all wiretapping and electronic eavesdropping, public and private, wherever and whenever it occurs." The only exceptions would be those instances where "the security of the Nation itself was at stake—and then only under the strictest safeguards."

In the bill I sign today, Congress has moved part of the way by

—banning all wiretapping and eavesdropping by private parties;

—prohibiting the sale and distribution of "listening-in" devices in interstate commerce.

But the Congress, in my judgment, has taken an unwise and potentially dangerous step by sanctioning eavesdropping and wiretapping by Federal, State, and local law officials in an almost unlimited variety of situations.

If we are not very careful and cautious in our planning, these legislative provisions could result in producing a nation of snoopers bending through the keyholes of the homes and offices in America, spying on our neighbors. No conversation in the sanctity of the bedroom or relayed over a copper telephone wire would be free of eavesdropping by those who say they want to ferret out crime.

Thus, I believe this action goes far beyond the effective and legitimate needs of law enforcement. The right of privacy is a valued right. But in a technologically advanced society, it is a vulnerable right. That is why we must strive to protect it all the more against erosion.

I call upon the Congress immediately to reconsider the unwise provisions of Title III and take steps to repeal them. I am directing the Attorney General to confer as soon as possible with the appropriate committee chairmen and warn them of the pitfalls that lie ahead, in the hope that the Congress will move to repeal the dangerous provisions of this title.

Until that can be accomplished we shall pursue—within the Federal Government—carefully designed safeguards to limit wiretapping and eavesdropping. The policy of this administration has been to confine wiretapping and eavesdropping to national security cases only—and then only with the approval of the Attorney General.

This policy, now in its third year, will continue in force. I have today directed the Attorney General to assure that this policy of privacy prevails and is followed by all Federal law enforcement officers.

Many States have protected the citizen against the invasion of privacy by making wiretapping illegal. I call upon the State and local authorities in the other States to apply the utmost restraint and caution if they exercise the broad powers of Title III. We need not surrender our privacy to win the war on crime.

Title II of the legislation deals with certain rules of evidence only in Federal criminal trials—which account for only 7 percent of the criminal felony prosecutions in this country. The provisions of Title II, vague and ambiguous as they are, can, I am advised by the Attorney General, be interpreted in harmony with the Constitution and Federal practices in this field will continue to conform to the Constitution.

Under long-standing policies, for example, the Federal Bureau of Investigation and other Federal law enforcement agencies have consistently given suspects full and fair warning of their constitutional rights. I have asked the Attorney General and the Director of the Federal Bureau of Investigation to assure that these policies will continue.

My overriding concern today, as it has been since the first day I became President, is for safe streets in America. I believe this measure, despite its shortcomings, will help to lift the stain of crime and the shadow of fear from the streets of our communities.

That promise, contained largely in Title I and in the reinforced gun control law I have asked for, must not be deterred.

I believe it is in America's interest that I sign this law today.

Crime will never yield to demagogic lament—only to action. With this measure, we are beginning to act. The Federal Government is taking a long overdue step.

But at a time when crime is on the tip of every American's tongue, we must remember that our protection rests essentially with local and State police officers. For of the 40,000 law enforcement agencies in this Nation, more than 39,750 are local, while some 200 are State and only the remaining 40-plus are Federal. Of the 371,000 full-time law enforcement officers in the Nation, 308,000 are local, while 40,000 are State and only 23,000 are Federal. The essential duties these 23,000 Federal officers are authorized by law to perform are to protect the President, ferret out crime in interstate commerce, investigate crime in interstate commerce, guard our borders, and enforce the tax and customs laws.

Today, the Federal Government is acting. But action must now also come from the cities and counties and States across America.

The cities must increase the size of their police forces.

The cities must pay their law enforcement officials more.

The local communities must train them better.

The cities and the States must streamline their courts and correctional institutions.

Both the cities and States must plan with care and imagination to use the new Federal funds we will make available under the act I sign today.

Today, I ask every Governor, every mayor, and every county and city commissioner and councilman to examine the adequacy of their State and local law enforcement systems and to move promptly to support the policemen, the law enforcement officers, and the men who wage the war on crime day after day in all the streets and roads and alleys in America.

Most important of all, I call upon every citizen in this Nation to support their local police officials with respect and with the resources necessary to enable them to do their job for justice in America.

I call upon our church leaders and every parent to provide the spiritual and moral leadership necessary to make this a law-abiding Nation, with respect for the rights of others, respect for their system of government, and support for those charged with the responsibility of protecting our lives, our homes, and our liberties.

EDUCATION LEADERS

Following is the complete text of President Johnson's June 20 remarks to a foreign policy conference for leaders in education, held at the State Department:

Mr. Vice President, Secretary Rusk, Distinguished Educators, My Friends:

Several times in the past years I have come over here to the State Department, fresh from a discussion of some serious international or domestic crisis, to address a group of educators. Each time I had the feeling that I was coming from a world of strife and tension to a world of serene tranquility—from those who deal with a world of shouts and turmoil, to those who live in an atmosphere of order and tolerance.

How times do change.

I suppose I really ought to ask some of you for a battlefield report this evening.

I would be interested to know how the pacification program is really coming along—or how much progress you are making in reform—or how things are going in the outlying buildings, and whether you really still hold the central administration offices.

What is clear, even without a report, is that both American education and the country itself are undergoing a rapid process of change.

And change is almost never comfortable. Old values are challenged; new beliefs are pressed with a passionate certainty. Some grow impatient with the pace of change, and violently reject the system that it seeks to transform. Others just hold on tenaciously to the things as they are.

But in between, there is a vast legion of people who want a better America and who pray for a safer world—and a more just society here at home, and peace between the nations.

They know that there must be sacrifices if these things are to be accomplished. They know that America has real obligations to its poor, and it must keep those obligations—

—to its allies abroad; which it must honor;

—to human freedom itself, whose mightiest guardian we are.

For 20 years now, this legion of thoughtful Americans has supported a great and a costly effort of responsibility in our world affairs. There have always been other choices available to us: isolationism, under various sophisticated names; at the other extreme, the quest for an end to all of our problems through a massive military "victory".

But for 20 years, we have rejected those extremes. They have sought to give the world a measure of stability, in which men and nations might seek prosperity and might seek understanding. They have given of their own treasure and skills to help their fellowman—in Europe first, and then in Asia, Latin America, Africa, and the Middle East.

What they have done did not stop the violence in the world. But in an age of great nuclear danger, it did seem to help to give mankind two decades of relative peace—certainly relative to what it might have been.

When the struggle in Vietnam is over, this legion of thoughtful men and women will have to decide, anew, what America's role in the world should be.

PRESIDENT OUTLINES 22-POINT ANTICRIME PROGRAM

With crime certain to be a major issue in the 1968 elections, President Johnson Feb. 7 outlined the most comprehensive set of anticrime proposals ever sent by a President to Congress. *(For text of message, see p. 257.)*

In his fourth annual message on crime, the President described a 22-point program with more than a dozen separate pieces of legislation.

He renewed his requests for a "safe streets" bill to help communities improve their law enforcement capabilities and for a measure to regulate the interstate shipment of firearms.

In addition, Mr. Johnson endorsed, for the first time, legislation making it a federal crime to cross state lines with the intent to incite a riot. And he sought stiffer penalties for illegal use and possession of narcotics and new laws aimed at gambling and organized crime.

Repeatedly, the President emphasized that "the major effort" against crime "must be made by our cities and towns" and that "state governments must provide maximum support." But he said it was imperative that the Federal Government "deal promptly, firmly and effectively with those who violate federal criminal laws and...assist states and cities in their local efforts."

"This year America must decisively capture the initiative in the battle against crime," the President said.

In a related development, Mr. Johnson sent Congress the same day a separate message declaring his plan to consolidate in the Justice Department the Bureau of Narcotics and the Bureau of Drug Abuse Control. Currently, the Bureau of Narcotics, which was responsible for controlling marijuana and such narcotics as heroin, was in the Treasury Department. The Bureau of Drug Abuse Control, which was concerned with LSD and other hallucinogens, was under the Health, Education and Welfare Department. Mr. Johnson noted the anomaly that "more than nine out of 10 seizures of LSD made by the Bureau of Drug Abuse Control have also turned up marijuana -- but that Bureau has no jurisdiction over marijuana." The Reorganization Plan was to be effective in 60 days unless Congress passed a resolution against it. *(For text of the reorganization message, see p. 263.)*

In another development, the President signed an Executive Order (11396) coordinating the law enforcement and crime prevention activities of all Government departments under the Attorney General. In this area, the President said, "Ramsey Clark is now Mr. Big."

Government officials characterized the crime message as "balanced," and the President's proposals included measures to rehabilitate alcoholics, addicts and juvenile delinquents and to improve court procedures. But many observers felt there was a definite shift in tone from previous messages -- from one of social action to one of punitive action. *(For the 1967 message, see 1967 Weekly Report p. 218.)*

Antiriot -- Gun Control. The major surprise of the crime message was the President's endorsement of an antiriot bill similar to the controversial one (HR 421) which the House passed in 1967. *(Weekly Report p. 42)*

Perhaps even more interesting was the fact that the President recommended that the antiriot bill be coupled with an Administration bill (S 1 -- Amendment 90, HR 5834) to regulate firearms. *(Weekly Report p. 36)*

The two pieces of legislation, the President said, had "a common end...to restrict the interstate movement of two causes of death and destruction." A Government official, who gave a press briefing with the understanding that he would not be identified, said that joining the antiriot and gun-control bills would "enhance the chances of enactment of both of them."

The Administration antiriot bill, the President said, was a "narrow and carefully drawn bill" which did not "impede free speech or peaceful assembly." The Government official said it was "tighter and more restrictive than the House-passed bill." The legislation set a maximum five-year prison sentence for a person convicted of inciting or organizing a riot, which actually occurred, after he had traveled between states with the intention of causing the riot. The President emphasized that the bill was not "a solution to our urban problems."

The Administration gun-control bill, which was approved by subcommittees in both the House and Senate in 1967 but was not reported by the full committees, regulated interstate mail-order shipment of firearms, over-the-counter sales of hand guns to out-of-state purchasers, the sale of firearms to minors and the importation of firearms. It contained a provision allowing state legislatures to exempt their state from the prohibition against mail-order sales.

Safe Streets. The heart of the President's crime proposals was the safe streets and crime control bill which provided project grants to local communities to upgrade their law enforcement capabilities.

The bill (HR 5037, S 917) was passed by the House in 1967 after it had been rewritten to contain Administration-opposed provisions which changed the categorical grants to block grants to be distributed at the discretion of the states and which emphasized programs dealing with riots and organized crime. The Senate Judiciary Subcommittee on Criminal Laws and Procedures subsequently approved the bill but added a number of provisions dealing with wiretapping, admissibility of evidence and court review. *(Weekly Report p. 35)*

Mr. Johnson called the Administration bill "the cornerstone of the federal anticrime effort to assist local law enforcement," and he raised his request for funds from $50 million sought in fiscal 1968 to $100 million in fiscal 1969.

Drug Control. In addition to combining the federal agencies which dealt with drug abuse, Mr. Johnson outlined a series of proposals to combat "the growing problem of narcotics and dangerous drugs" which "threaten our nation's health, vitality and self-respect."

The President proposed legislation making it a felony punishable by five years in prison to sell or distribute LSD and other hallucinogens. Under existing law, it was only a misdemeanor. The legislation also made possession of LSD, for the first time, a misdemeanor. The President asked for funds to increase by more than a third the number of federal narcotics and drug abuse agents.

In addition, Mr. Johnson instructed the National Commission on Reform of Federal Criminal Laws to review federal narcotic and drug abuse laws, and he urged a step-up in research into drugs and rehabilitation of addicts by the National Institute of Mental Health.

Gambling -- Organized Crime. The President noted that gambling was "the major source of revenue for organized crime," and he asked for two separate pieces of legislation aimed at controlling gambling. One outlawed as a federal crime gambling that was illegal under state law when the gambling was "a substantial business affecting interstate commerce." The other increased the federal wagering tax and altered the law to "a form that does not raise constitutional problems."

The President said he had directed Government law enforcement agencies to give "highest priority" to the control of organized crime. He also renewed his request for enactment of a bill (S 677) which provided for compelled testimony, coupled with witness immunity, in criminal cases involving organized crime. S 677 was passed by the Senate in 1967, but the House took no action. *(1967 Weekly Report p. 1062)*

Juvenile Delinquency. The President urged passage of his juvenile delinquency prevention bill (HR 12120), which authorized $25 million for juvenile delinquency control programs and rehabilitation centers. The House passed HR 12120 in 1967 but included an Administration-opposed amendment providing block grants to the states. The Senate did not act in 1967. *(Weekly Report p. 42)*

Wiretapping. Mr. Johnson again sought passage of his right of privacy bill (S 928), which prohibited electronic wiretapping and bugging except in national security cases. A Government official denied rumors that the President was willing, in order to secure passage of the safe streets bill, to accept legislation backed by Sen. John L. McClellan (D Ark.) permitting wiretapping in a wide variety of cases. *(Weekly Report p. 36)*

Alcoholism. The President requested $13.4 million under the Community Mental Health Centers Act for the treatment and prevention of alcoholism, and he asked for a program to aid states and communities "in developing non-jail alternatives for the handling of alcoholics."

Corrections System. Mr. Johnson repeated his request for a single correction system unifying prison, parole and probation services. Although the President made a similar request in 1967, no action was taken by Congress.

Evidence Suppression. The President asked the Senate to complete action on a bill (HR 8654) providing for an appeal by the Government from a lower court decision sustaining defense motions to supress evidence. The bill was passed by the House in 1967. *(1967 Weekly Report p. 1854)*

Other Proposals. The President asked for legislation prohibiting advertising and shipment in interstate commerce of automobile master keys, and he sought a bank-protection bill with regulations requiring banks to install a protective system.

He issued a directive that all recipients of model cities funds include a crime prevention and control plan in their over-all plan for the use of federal funds.

To improve local law enforcement, the President sought better communication techniques, including the development of "methods to make the ordinary telephone more effective for summoning police aid in times of emergency" and more new radio channels for police and emergency services. He also ordered a study of new weapons and chemicals for use in crime control.

To beef up the federal law enforcement efforts, the President sought funds for 100 additional assistant U.S. attorneys, 100 additional agents for the FBI and an increase in lawyers for the Justice Department's Criminal Division.

Capitol Briefs

SACB. The Subversive Activities Control Board (SACB) scheduled its first hearing in nearly two years for Feb. 26 in New York City. The Board was to hear testimony on the Justice Department contention that the W.E.B. DuBois Clubs of America are "substantially directed, dominated and controlled by the Communist party." The hearing could continue the life of the Board which, according to a 1967 law, was to go out of existence on June 30, 1969, if it had not held hearings. *(1967 Weekly Report p. 2672)*

NASA Appointment. President Johnson Jan. 31 nominated Thomas O. Paine as Deputy Administrator of the National Aeronautics and Space Administration (NASA). Dr. Paine would succeed Robert C. Seamans, who resigned Jan. 1 to return to private life. *(For Seamans resignation, see 1967 Weekly Report p. 2055.)*

Paine was manager of the Technical Military Planning Operation (TEMPO) of General Electric in Santa Barbara, California.

Space Report. A report submitted to Congress Jan. 30 by President Johnson reviewed the nation's 1967 space activities and said there was evidence that the Soviet Union gives higher priority than the United States to its space program. The report, prepared by 12 agencies contributing to space activities, was issued by the National Aeronautics and Space Council.

Despite the U.S. space program's "increasingly serious funding competition from other high-priority programs," the report said, statistics indicated that the United States launched more objects into space in 1967 than did the Soviet Union. *(For the fiscal 1968 space program, see Weekly Report p. 151.)*

Hydrogen Bombs. A Strategic Air Command (SAC) B-52 bomber carrying four unarmed hydrogen bombs Jan. 21 crashed onto ice off Greenland near Thule Air Force Base, killing one of the seven crewmen. SAC Jan. 28 announced that parts of the four bombs (identified by serial numbers) had been found scattered along ice at the crash site and said that a search would continue to recover all available fragments. There had been no nuclear explosion, but searchers found radiation at the crash scene from plutonium dust set free when TNT wrappers around the nuclear material in the bombs detonated, blasting open the bomb casings.

whether he was without the assistance of counsel when questioned and when giving the confession;

• No single factor need be conclusive on the issue of voluntariness.

Mallory Case. Provided that in any federal criminal prosecution, a confession made by a person in custody of law officers was not to be inadmissible in evidence solely because of delay in bringing the defendant before a commissioner or other officer empowered to commit persons, if the confession were found to be voluntary, if the weight of the confession were left to the jury and if the confession were given within six hours immediately following arrest.

Provided that, if the confession were given after six hours immediately following arrest and the trial judge found that further delay to be reasonable considering the means of transportation and the distance to be traveled to the committing officer, the confession could be admissible.

Stated that nothing in this section was a bar to admission in evidence of any confession given voluntarily by any person to any other person without interrogation by anyone or at any time at which the person giving the confession was not under arrest or other detention.

Wade Case. Provided that the testimony of an eyewitness that he saw the accused commit or participate in the commission of the crime for which the accused was being tried was to be admissible in evidence in any federal criminal trial.

Title III: Wiretapping

Illegal Interceptions. Provided that, except as otherwise specified, whoever willfully intercepted wire or oral communications, used wiretapping or electronic bugging devices or disclosed or used such interception would be fined not more than $10,000 and imprisoned not more than five years.

Exempted switchboard operators, employees of communication common carriers in their normal course of business and employees of the Federal Communications Commission in their normal duties.

Exempted public officials where one party to the communication consented to the intercept.

Exempted anyone if one party consented to the intercept and the communication had to do with any criminal or tortious act.

Exempted intercepts made pursuant to Presidential directive based on national security needs or aimed at efforts to overthrow the Government; and provided that evidence so obtained could be admitted at any trial but would not otherwise be used except as needed to implement the President's power to protect the nation.

Manufacturing. Provided that, except as otherwise specified, whoever sent through the mail, sent or carried in interstate commerce, manufactured or advertised wiretapping or electronic bugging equipment, having reason to know that it would be used for surreptitious interceptions, was to be fined not more than $10,000 and imprisoned not more than five years.

Exempted employees of communication common carriers and all federal, state and local public officials and law officers.

Confiscation. Provided for the seizure by and forfeiture to the United States of equipment made or transported in violation of the forgoing section; and provided for compensation in appropriate cases.

Witness Immunity. Provided, for purposes of this law, that any U.S. attorney, with the approval of the Attorney General, could seek a court order requiring a witness to testify or produce books or accounts or other evidence on condition that the witness not be prosecuted on the basis of evidence he produced; but provided that he could be prosecuted for perjury or contempt.

Prohibited Use. Prohibited warrantless intercepts, except in emergencies, and the use at any trial or hearing of contents of any interception if the disclosure were in violation of law.

Authorized Interceptions. Authorized the Attorney General to apply to any federal judge for a warrant approving wire or oral intercepts relating to a wide range of specified federal offenses punishable by death or imprisonment for more than one year, namely: violations of the Atomic Energy Act; espionage; sabotage; treason; rioting; unlawful payments or loans to labor organizations; murder; kidnaping; robbery; extortion; bribing public officials or witnesses; sports bribes; wagering offenses; influencing or injuring an officer, juror or witness; obstructing criminal investigations; Presidential assassination, kidnapping or assault; interference with commerce by threats or violence; racketeering offenses; unlawfully influencing an employee benefit plan; theft from interstate shipment; embezzlement from pension and welfare funds; interstate transportation of stolen property; counterfeiting; bankruptcy fraud; narcotics violations; extortionate credit transactions; or any conspiracy to commit such offenses.

Authorizing the principal prosecuting attorney of any state or political subdivision to apply to a state judge for a warrant approving wire or oral intercepts relating to any crime dangerous to life, limb or property and punishable by imprisonment for more than one year.

Authorized Disclosure. Authorized any law officer or any other person obtaining information in conformity with the previous sections to disclose or use it as appropriate.

Provided that no otherwise privileged communication would lose its privileged character.

Provided that information obtained relating to offenses other than those specified in the warrant could be disclosed as appropriate.

Warrants. Required an application for a warrant to identify the investigating officer; contain a statement of facts of the case; specify the offense; describe the nature and location of the communication facilities; describe the type of communications to be intercepted; identify the person, if known, committing the offense; state whether other investigative procedures had been tried; state the period of time of the intercept and state whether previous applications for a warrant had been made; state the results of previous intercepts if applying for an extension.

Authorized the judge to issue a warrant if he determined that probable cause existed that a crime was being, had been or was about to be committed, and that information relating to that crime would be obtained by the intercept.

Required the order issuing the warrant to state the identity of the person involved, if known; the nature and location of the communications facilities; the type of

communications to be intercepted; the identity of the law enforcement agency; and the period of time of the intercept.

Limited warrants to 30 days, renewable for 30-day extensions.

Emergency Intercepts. Authorized any federal official designated by the Attorney General or any state or local official designated by the principal prosecuting attorney of his jurisdiction, who reasonably determined that an emergency situation existed relating to conspiratorial activities threatening the national security or involving organized crime, to conduct wire or oral intercepts without a warrant.

Required such an officer to apply for a warrant within 48 hours thereafter.

Recordings. Required, when possible, that intercepts be recorded and kept for 10 years; required that applications for warrants be kept for 10 years.

Inventory. Required the judge issuing or denying a warrant, within 90 days of termination of the intercept, to inform the person whose communications were intercepted of the fact and date of the entry and of the fact that communications were or were not intercepted; permitted the judge to postpone such notice.

Required the prosecution, when possible, to inform a defendant at least 10 days before trial of the fact that an intercept was made and to provide him with a copy of the warrant.

Motions To Suppress. Authorized any aggrieved person to move to suppress the contents of intercepted communications on grounds it was unlawfully intercepted, that the warrant was insufficient or that the intercept was not made in conformity with the warrant; authorized the United States to appeal a ruling granting a motion to suppress.

Reports. Required any judge issuing or denying an application for a warrant, within 30 days of the expiration of the warrant, to report to the Administrative Office of the United States Courts the fact that a warrant was applied for, the action taken and other appropriate information.

Required the Attorney General each January to report to the Office similar information and the number of arrests, trials, motions to suppress and convictions in which intercepts were involved.

Required the director of the Office each April to report a summary of such information to Congress.

Civil Suits. Authorized any aggrieved person to sue the person who made the intercept in violation of law for damages of $100 a day or $1,000, whichever was higher, for punitive damages and for court and attorney's costs; provided that a good faith reliance on a warrant or an emergency intercept was a complete defense to such a suit.

Commission. Established a National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance.

Provided for four Senators to be appointed by the President of the Senate, for four Members of the House to be appointed by the Speaker and for seven private citizens to be appointed by the President.

Required the Commission to make a comprehensive six-year study of such laws and of the effectiveness of HR 5037; required the Commission to report within one year thereafter.

Title IV: Firearms Control

General Declaration. Stated "that the ease with which any person can acquire firearms other than a rifle or shotgun...is a significant factor in the prevalence of lawlessness and violent crime in the United States" and that "only through adequate federal control over interstate and foreign commerce in these weapons...can this grave problem be properly dealt with and effective state and local regulation of this traffic be made possible."

Declared that it was "not the purpose of this title to place any undue or unnecessary federal restrictions or burdens on law-abiding citizens" and that the title was "not intended to discourage or eliminate the private ownership or use of firearms by law-abiding citizens for lawful purposes."

Mail-Order Sales. Banned the shipment in interstate or foreign commerce of handguns and ammunition to individuals.

Specifically excluded rifles and shotguns from the prohibition.

Permitted a dealer to return a firearm to a person from whom it was received or to replace a firearm of the same type.

Out-of-State Purchases. Prohibited the sale of a handgun, but not a rifle or shotgun, to a person who did not live in the dealer's state; and prohibited a person from purchasing a handgun out of state.

Prohibited the sale of any firearm to a person if it would have been illegal for the person to purchase the same weapon in his own state or community; prohibited the receipt of a firearm by a person if he could not have received it legally in his own state or community.

Banned the transportation in interstate or foreign commerce by an individual of a destructive device (such as a bomb or hand grenade), a machinegun or a sawed-off shotgun.

Other Restrictions. Prohibited the sale of handguns to persons under 21.

Prohibited the sale or delivery of a destructive device, machinegun or sawed-off shotgun to any individual unless he had a sworn statement from the chief law enforcement officer in his community that there was no law which would be violated by the person's receiving the weapon and that the person planned to use the weapon for lawful purposes.

Required a dealer to keep records of the name, age and address of any person to whom he sold a firearm.

Prohibited a dealer from selling a firearm to a person he knew or believed was a convicted felon, a fugitive or under indictment.

Licensing. Required any importer, manufacturer or dealer to obtain a federal license.

Set the following annual license fees:

- $1,000 for a manufacturer, importer or dealer in destructive devices or ammunition.
- $500 for a manufacturer or importer of firearms other than destructive devices.
- $250 for a pawnbroker dealing in firearms.
- $10 for a dealer not selling destructive devices.

Set standards for licensees.

Penalties. Set a maximum penalty of a $5,000 fine and a five-year prison term for violations of the Act.

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SECRET

22 August 1968

MEMORANDUM FOR: Chief/SAD

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ATTENTION : [redacted]

SUBJECT : Electronic Wiretapping and Eavesdropping Devices

1. Attached for your information is a copy of the provisions of the Omnibus Crime Control Bill relating to wiretapping. Please note the prohibitions against reproduction, and control this copy carefully.

2. As requested in your memorandum of 14 August, the undersigned will keep you advised upon the receipt of further information.

25X1

Signed

[redacted]

Special Assistant
Executive & Planning Division

Attachment